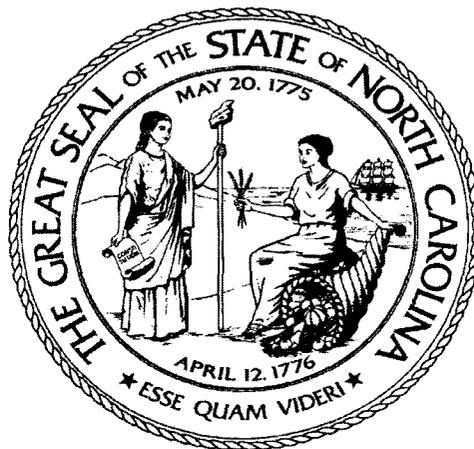


LEGISLATIVE RESEARCH COMMISSION

**COMMITTEE ON JUDICIAL
EFFICIENCY AND EFFECTIVE
ADMINISTRATION OF JUSTICE**

NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA**

APRIL, 2014

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TRANSMITTAL LETTER

May 13, 2014

TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Judicial Efficiency and Effective Administration of Justice, pursuant to G.S. 120-30.17(1).

Respectfully submitted,



Senator Thomas M. Apodaca



Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Representative Timothy K. Moore
Co-Chair

Senator Phil Berger, Ex Officio
Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative Thom Tillis, Ex Officio
Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of **Judicial Efficiency and Effective Administration of Justice**, under authority of G.S. 120-30.17(1). The Committee was chaired by Senator and Representative R. Davis, Co-Chairs of the Committee. The full membership of the Committee is listed under Committee Membership. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2013-2014** biennium.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's House Committee on Judicial Efficiency and Effective Administration of Justice met 4 times after the 2013 Regular Session. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library. The electronic documents accompanying each presentation can be found [here](#).

November 21, 2013

The first meeting was held on Thursday, November 21, 2013, at 10:00 AM in Room 544 of the Legislative Office Building. Susan Sitze, Staff Attorney, delivered the Committee charge. Next, William Childs, Fiscal Research Division, provided an overview of the history and budget of the Administrative Office of the Courts (AOC). Additionally, Judge John Smith, AOC Director, presented judicial department workload formulas and tools, and provided detailed logistical data on court filings in the various courts. Finally, David Vanderweide, Fiscal Research Division, provided an overview of salary plans for assistant clerks, deputy clerks, magistrates, and the State Highway Patrol.

January 23, 2014

The second meeting was held on Thursday, January 23, 2014, at 9:00 AM in Room 544 of the Legislative Office Building. The Committee heard a presentation on the history of the court system from James Drennan, North Carolina School of Government (SOG). Next, Dona Lewandowski, SOG, discussed the statutory authority, qualifications, and training of magistrates. Bradley Fowler, AOC Planning and Organizational Development Officer, presented a survey administered by AOC that showed the authority granted to the magistrates by the district court judges in all 100 counties. Next, Judge John Jolly, Chief Special Superior Court Judge of the North Carolina Business Court, discussed the caseload and needs of the Business Court. The Committee heard presentations by Jon Williams, AOC Senior Deputy Director, and Jeff Marecic, AOC Chief Information Officer, pertaining to the status of AOC technology and the Court Information Technology Fund.

After a recess, Susan Sitze, Staff Attorney, detailed the current law regarding mediation in North Carolina, and Jody Minor, Executive Director of Mediation Network of North Carolina, discussed the role of her organization in providing mediation services. Then, Ms. Sitze gave an overview of court systems in other states. Next, Lieutenant Colonel Billy Clayton, North Carolina State Highway Patrol, discussed the status of Highway Patrol salaries. Thomas Maher, Executive Director of the Office of Indigent Defense Services, reported on the benefits and challenges of the request for proposals (RFP) system for legal services contracts. Finally, Judge Joseph John, Director of the North

Carolina State Crime Laboratory, discussed the employee turnover rate within the crime lab.

February 20, 2014

The third meeting was held on Thursday, February 20, 2014, at 1:00 PM in Room 544 of the Legislative Office Building. The Committee heard a presentation from Lorrin Freeman, Wake County Clerk of Superior Court, regarding the salaries and turnover rate of the clerks of superior court. Next, William Childs, Fiscal Research Division, gave an overview of the appointment and role of special superior court judges. Mr. Childs then gave a presentation on the role of judicial staff (courthouse personnel conducting secretarial, administrative, and executive duties on behalf of judges) and the ratio of staff to judges. Thomas Maher, Executive Director of the Office of Indigent Defense Services, discussed the benefits of public defender expansion. Finally, Susan Sitze, Staff Attorney, presented information on the members, authority, recommendations, and records of the Judicial Standards Commission. The Committee also discussed potential findings and recommendations.

April 3, 2014

The fourth meeting was held on Thursday, April 3, 2014, at 1:00 PM in Room 544 of the Legislative Office Building. The Committee approved the final report.

FINDINGS AND RECOMMENDATIONS

Based on information presented to the Legislative Research Commission Committee on Judicial Efficiency and the Effective Administration of Justice during its regularly scheduled meetings, the Committee reports the following findings and makes the following recommendations to the 2014 Session of the 2013 General Assembly:

1. The Committee finds that the General Assembly should require that cases in district court making a civil claim of \$10,000 or more be subject to the same mandatory mediated settlement conference requirement as all civil claims in superior court. The Committee recommends the enactment of Legislative Proposal #1.
2. The Committee finds that the General Assembly should amend G.S. 7A-38.7 to provide a method for the court to enforce payment of the criminal mediation fee, possibly by implementing a time period by which payment must be made to qualify for dismissal of charges. The Committee recommends the enactment of Legislative Proposal #2.
3. The Committee finds that the General Assembly should direct the Administrative Office of the Courts to study the supervision and appointment of magistrates. The Committee recommends the enactment of Legislative Proposal #3.
4. The Committee finds that the General Assembly should create a "notice and demand" statute for remote testimony by lab analysts in criminal cases, which provides that a lab analyst does not have to be physically present in the courtroom and may testify remotely if the State provides notice to the defendant that the State plans to have the lab analyst testify via video conferencing and the defendant does not make a timely objection. The General Assembly should provide an appropriation in an amount sufficient to provide the necessary equipment to at least three judicial districts for pilot projects to test the use of remote testimony pursuant to the "notice and demand" statute. The Committee recommends the enactment of Legislative Proposal #4.
5. The Committee finds that the General Assembly should eliminate the use of special judges of the superior court by phasing out those positions as current appointees reach the end of their terms of appointment. To fill the needs currently served by special judges, emergency superior court judges should be used. The statutes governing emergency superior court judges should be amended to allow emergency judges to serve up to age 76, to make any additional amendments needed to provide an adequate number of available emergency superior court judges, and to require those judges to meet judicial continuing legal education requirements. A new statutory plan that creates specific qualifications and

provides for eight-year terms of appointment should be created to provide for business court judges in the Superior Court Division. The Committee recommends the enactment of Legislative Proposal #5.

6. The Committee finds that the General Assembly should amend G.S. 7A-343.1 to reduce the number of recipients of hard copies of appellate division reports distributed at State expense. The reports should be available electronically to all current recipients. The Committee recommends the enactment of Legislative Proposal #6.
7. The Committee finds that the General Assembly should direct the Administrative Office of the Courts (AOC) to develop a case management system for civil cases in superior court designed to make more efficient use of superior court time and resources, including a more flexible designation of mixed sessions. The system should provide for each case to be assigned to a superior court judge who will oversee the case, including scheduling of pretrial hearings, motions hearings, and trial of the case. The Committee recommends the enactment of Legislative Proposal #7.
8. The Committee finds that the General Assembly should require the Administrative Office of the Courts to develop a written, comprehensive policy for Information Technology Resource Management, including specific guidelines for the distribution and maintenance of Information Technology hardware. The Committee recommends the enactment of Legislative Proposal #8.
9. The Committee recommends that the General Assembly authorize a step increase for all eligible magistrates for Fiscal Year 2014-2015.
10. The Committee recommends that the General Assembly repeal the current payment plan for deputy and assistant clerks of court in favor of a system that provides each elected clerk of superior court with an appropriated amount for salaries and benefits to be used at each clerk's discretion. Within the amount of funds appropriated, each clerk shall have the ability to determine how many deputy and assistant clerks to employ and what the salaries shall be for each employee. The amount appropriated to each clerk of superior court for Fiscal Year 2014-2015 should be equal to the salaries plus benefits of all current positions in that particular clerk's office plus an additional sum that is equivalent to the amount necessary to provide all eligible employees in the office with a step increase under the current payment plan. Funds appropriated to each clerk of superior court for a fiscal year shall be used for salaries and benefits for deputy and assistant clerks.
11. The Committee recommends that the General Assembly authorize a step increase for all eligible State Highway Patrol Troopers for Fiscal Year 2014-2015.

12. The Committee finds that the General Assembly should authorize the State Highway Patrol to initiate a two- to three-year plan to reduce the mileage on State Highway Patrol vehicles before vehicle replacement, and should appropriate an amount sufficient to facilitate this recommendation. The Committee recommends the enactment of Legislative Proposal #9.
13. The Committee finds that the General Assembly should require the State Highway Patrol to study the feasibility and cost effectiveness of contracting with local businesses to perform routine maintenance on State Highway Patrol vehicles in lieu of requiring the vehicles to be taken to a regional maintenance facility. The Committee recommends the enactment of Legislative Proposal #10.
14. The Committee finds that the General Assembly should direct the Department of Public Safety to determine if it would be possible to have State Highway Patrol uniforms made by Correction Enterprises, and if there would be a cost savings to the State by doing so. The Committee recommends the enactment of Legislative Proposal #11.
15. The Committee finds that the General Assembly should appropriate funds to increase the salaries for Forensic Scientists I, II, and III, Forensic Supervisors, and Forensic Managers at the State Crime Laboratory by ten percent. The Committee recommends the enactment of Legislative Proposal #12.
16. The Committee finds that the General Assembly should appropriate funds to continue to reduce the arrearages in funding for the Office of Indigent Services.
17. The Committee finds that the General Assembly should reestablish the Joint Select Study Committee on the Preservation of Biological Evidence so that it can complete its work in addressing the handling and custody of biological evidence in the State court system. The Committee recommends the enactment of Legislative Proposal #13.

COMMITTEE MEMBERSHIP

2013-2014

House of Representatives Members:

Representative Justin P. Burr, Co-Chair
Representative Ted Davis, Jr., Co-Chair

Representative James L. Boles, Jr.
Representative N. Leo Daughtry
Representative Josh Dobson
Representative John Faircloth
Representative Richard Glazier
Representative Pat B. Hurley
Representative Darren G. Jackson
Representative Jonathan C. Jordan
Representative Allen McNeill
Representative Bobbie Richardson
Representative Rena W. Turner
Representative Timothy K. Moore, Ex Officio

COMMITTEE CHARGE

The LRC Committee on Judicial Efficiency and Effective Administration of Justice shall study the structure and needs of the State's judicial and prosecutorial districts. The Committee shall make recommendations on future judicial resource allocation. The study shall include the following:

1. Current and historical annual case volume in each district.
2. Funding requirement forecasts and actual allocations in each district.
3. Past case volume projections in each district as compared to actual case volume.
4. Volume of prosecuted cases per judge and per district attorney in each district.
5. Average number of hours worked by district administrative staff per case in each district.
6. Volume and statistical nature of costly criminal cases in each district in relation to statewide and national judicial averages.

Additionally, the Committee shall study issues related to the provision of effective and efficient administration of justice throughout the State's judicial system. This study shall include the following:

1. Operational inefficiencies in case scheduling and management at the District and Superior Court level.
2. National trends regarding improved judicial case scheduling and management.
3. Comparative salary information for clerks, district attorneys, judges and Highway Patrol officers in North Carolina.
4. The impact of discontinued scheduled step raises for young employees in the judicial system and State law enforcement agencies.
5. A process for designating cases as complex business cases and assigning them to business court judges, including the possibility of providing that appeals from complex business cases go directly to the Supreme Court.
6. Any other issues pertinent to this study.

STATUTORY AUTHORITY

NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

LEGISLATIVE PROPOSALS

LEGISLATIVE PROPOSAL #1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

BILL DRAFT 2013-LLz-179 [v.8] (02/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/1/2014 10:14:21 AM

Short Title: Mandatory Mediated Settlements/District Ct. (Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO PROVIDE FOR MANDATORY MEDIATED SETTLEMENT
3 CONFERENCES IN DISTRICT COURT CIVIL ACTIONS IN WHICH THE
4 AMOUNT IN CONTROVERSY EXCEEDS TEN THOUSAND DOLLARS AND
5 TO MAKE A TECHNICAL CORRECTION TO THE RULES OF CIVIL
6 PROCEDURE, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH
7 COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE
8 ADMINISTRATION OF JUSTICE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 7A-38.4A is amended by adding a new subsection to
11 read:

12 "(b1) The chief district court judge of a judicial district shall order a mediated
13 settlement conference or another settlement procedure, as provided under subsection (g)
14 of this section, for any action pending in that district in which the amount in controversy
15 exceeds ten thousand dollars (\$10,000). Each chief district court judge shall adopt local
16 rules that order settlement procedures in all of the foregoing actions and designate other
17 district court judges or administrative personnel to issue orders implementing those
18 settlement procedures. However, local rules adopted by a chief district court judge shall
19 not be inconsistent with any rules adopted by the Supreme Court."

20 **SECTION 2.** G.S. 7A-38.4A(c) reads as rewritten:

21 "(c) Any In addition to those cases in which a mediated settlement conference is
22 mandatory under subsection (b1) of this section, any chief district court judge in a
23 judicial district may order a mediated settlement conference or another settlement
24 procedure, as provided under subsection (g) of this section, for any action pending in
25 that district involving issues of equitable distribution, alimony, child or post separation
26 support, or claims arising out of contracts between the parties under G.S. 52-10,

1 G.S. 52-10.1, or Chapter 52B of the General Statutes. The chief district court judge may
2 adopt local rules that order settlement procedures in all of the foregoing actions and
3 designate other district court judges or administrative personnel to issue orders
4 implementing those settlement procedures. However, local rules adopted by a chief
5 district court judge shall not be inconsistent with any rules adopted by the Supreme
6 Court."

7 **SECTION 3.** G.S. 1A-1, Rule 8(a), reads as rewritten:

8 "(a) Claims for relief. – A pleading which sets forth a claim for relief, whether an
9 original claim, counterclaim, crossclaim, or third-party claim shall contain

10 (1) A short and plain statement of the claim sufficiently particular to give
11 the court and the parties notice of the transactions, occurrences, or
12 series of transactions or occurrences, intended to be proved showing
13 that the pleader is entitled to relief, and

14 (2) A demand for judgment for the relief to which he deems himself
15 entitled. Relief in the alternative or of several different types may be
16 demanded. In all negligence actions, and in all claims for punitive
17 damages in any civil action, wherein the matter in controversy exceeds
18 the sum or value of ~~ten thousand dollars (\$10,000)~~, twenty-five
19 thousand dollars (\$25,000), the pleading shall not state the demand for
20 monetary relief, but shall state that the relief demanded is for damages
21 incurred or to be incurred in excess of ~~ten thousand dollars (\$10,000)~~.
22 twenty-five thousand dollars (\$25,000). However, at any time after
23 service of the claim for relief, any party may request of the claimant a
24 written statement of the monetary relief sought, and the claimant shall,
25 within 30 days after such service, provide such statement, which shall
26 not be filed with the clerk until the action has been called for trial or
27 entry of default entered. Such statement may be amended in the
28 manner and at times as provided by Rule 15."

29 **SECTION 4.** Section 3 of this act is effective when it becomes law. The
30 remainder of this act becomes effective July 1, 2014, and applies to actions filed on or
31 after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-187 [v.6] (03/25)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/1/2014 11:02:24 AM**

Short Title: Enforce Payment of Criminal Mediation Fee. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A MECHANISM FOR ENFORCING PAYMENT OF THE
CRIMINAL MEDIATION FEE, AS RECOMMENDED BY THE LEGISLATIVE
RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND
EFFECTIVE ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-38.7 reads as rewritten:

"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to three dollars (\$3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. The court may waive or reduce a fee assessed under this section only upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to grant the waiver or reduction.

(b) No criminal case may be dismissed through referral to mediation unless the full amount of any fee required under this subsection is paid within 60 days of the referral. If payment has not been made within that time, the case shall be remanded back to the court for disposition. Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section and shall attach the receipt to the dismissal form."

SECTION 2. This act becomes effective October 1, 2014, and applies to criminal cases referred to mediation on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-188B [v.1] (03/25)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/22/2014 12:13:54 PM**

Short Title: Study Supervision of Magistrates. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

**AN ACT TO DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO
STUDY THE APPOINTMENT AND SUPERVISION OF MAGISTRATES, AS
RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S
COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE
ADMINISTRATION OF JUSTICE.**

The General Assembly of North Carolina enacts:

SECTION 1. The Administrative Office of the Courts shall study the current law for the appointment and supervision of magistrates. The study shall consider whether supervision of magistrates should be the responsibility of some person other than the chief district court judge and shall address whether any other changes should be made to the process for appointing and supervising magistrates. The Administrative Office of the Courts shall report the results of this study to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2015.

SECTION 2. This act becomes effective July 1, 2014.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

U

D

BILL DRAFT 2013-SAza-14 [v.8] (03/31)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/22/2014 12:08:00 PM**

Short Title: Remote Testimony by Analysts. (Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE REMOTE VIDEO TESTIMONY BY FORENSIC AND
3 CHEMICAL ANALYSTS, AS RECOMMENDED BY THE LEGISLATIVE
4 RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND
5 EFFECTIVE ADMINISTRATION OF JUSTICE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 73 of Chapter 15A of the General Statutes is amended
8 by adding a new section to read:

9 **"§ 15A-1225.3. Forensic analyst remote testimony.**

10 (a) Definitions. – The following definitions apply to this section:

11 (1) Criminal proceeding. – Any hearing or trial in a prosecution of a
12 person charged with violating a criminal law of this State, and any
13 hearing or proceeding conducted under Subchapter II of Chapter 7B of
14 the General Statutes where a juvenile is alleged to have committed an
15 offense that would be a criminal offense if committed by an adult.

16 (2) Remote testimony. – A method by which a forensic analyst testifies
17 from a location other than the location where the hearing or trial is
18 being conducted and outside the physical presence of a party or
19 parties.

20 (b) Remote Testimony Authorized. – In any criminal proceeding, the testimony of an
21 analyst regarding the results of forensic testing admissible pursuant to G.S. 8-58.20, and
22 reported by that analyst, shall be permitted by remote testimony if all of the following
23 occur:

24 (1) The State has provided a copy of the report to the attorney of record
25 for the defendant, or to the defendant if that person has no attorney, as
26 required by G.S. 8-58.20(d).

27 (2) The State notifies the attorney of record for the defendant, or the
28 defendant if that person has no attorney, at least 15 business days
29 before the proceeding at which the evidence would be used of its

intention to introduce the testimony regarding the results of forensic testing into evidence using remote testimony.

- (3) The defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the testimony will be presented that the defendant objects to the introduction of the remote testimony.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the analyst shall be allowed to testify by remote testimony.

(c) Testimony. – The method used for remote testimony authorized by this section shall allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar manner as if the analyst were testifying in the location where the hearing or trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if that person has no attorney, has a full and fair opportunity for examination and cross-examination of the analyst.

(d) Nothing in this section shall preclude the right of any party to call any witness."

SECTION 2. G.S. 20-139.1 is amended by adding a new subsection to read:

"(c5) The testimony of an analyst regarding the results of a chemical analysis of blood or urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, shall be permitted by remote testimony, as defined in G.S. 15A-1225.3, in all administrative hearings, and in any court, if all of the following occur:

- (1) The State has provided a copy of the report to the attorney of record for the defendant, or to the defendant if that person has no attorney, as required by subsections (c1) and (c3) of this section.

- (2) The State notifies the attorney of record for the defendant, or the defendant if that person has no attorney, at least 15 business days before the proceeding at which the evidence would be used of its intention to introduce the testimony regarding the chemical analysis into evidence using remote testimony.

- (3) The defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court, with a copy to the State, at least five business days before the proceeding at which the testimony will be presented that the defendant objects to the introduction of the remote testimony.

If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection as provided in this subsection, then the analyst shall be allowed to testify by remote testimony.

The method used for remote testimony authorized by this subsection shall allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar manner as if the analyst were testifying in the location where the hearing or trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if that person has no attorney, has a full and fair opportunity for examination and cross-examination of the analyst.

Nothing in this section shall preclude the right of any party to call any witness."

1 **SECTION 3.** There is appropriated from the General Fund to the
2 Administrative Office of the Courts the sum required to fund equipment needed for the
3 use of remote testimony in at least three prosecutorial districts, not to exceed the sum of
4 five hundred thousand dollars (\$500,000) for the 2014-2015 fiscal year.

5 **SECTION 4.** Section 3 of this act becomes effective July 1, 2014. The
6 remainder of this act becomes effective December 1, 2014, and applies to testimony
7 admitted on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-182 [v.14] (02/27)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/2/2014 4:50:46 PM**

Short Title: Business Ct Judges/End Special Sup Ct Judges. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE USE OF SPECIAL SUPERIOR COURT JUDGES,
TO PROVIDE FOR THE APPOINTMENT OF BUSINESS COURT JUDGES BY
THE GOVERNOR IN CONSULTATION WITH THE CHIEF JUSTICE, AND TO
PROVIDE FOR THE RENEWED USE OF EMERGENCY SUPERIOR COURT
JUDGES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH
COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE
ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, effective on and after July 1, 2014, any seat established by this section is abolished when any of the following first occurs:

- (1) Retirement of the incumbent judge.
- (2) Resignation of the incumbent judge.
- (3) Removal from office of the incumbent judge.
- (4) Death of the incumbent judge.
- (5) Expiration of the term of the incumbent judge."

SECTION 2. G.S. 7A-52 reads as rewritten:

"§ 7A-52. Retired district and superior court judges may become emergency judges subject to recall to active service; compensation for emergency judges on recall.

(a) Judges of the district court ~~and judges of the superior court~~ who have not reached the mandatory retirement age specified in ~~G.S. 7A-4.20~~, G.S. 7A-4.20 and judges of the superior court who have not reached their seventy-sixth birthday, but who have retired under the provisions of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the court from which they retired. The Chief Justice of the Supreme Court may order any emergency judge of the district or superior court who, in his opinion, is competent to perform the duties of a

Appendix D

1 judge of the court from which such judge retired, to hold regular or special sessions of
2 such court, as needed. Order of assignment shall be in writing and entered upon the
3 minutes of the court to which such emergency judge is assigned. Emergency superior
4 court judges are subject to the annual continuing legal education requirements set by the
5 State Bar.

6 (b) In addition to the compensation or retirement allowance the judge would
7 otherwise be entitled to receive by law, each emergency judge of the district or superior
8 court who is assigned to temporary active service by the Chief Justice shall be paid by
9 the State the judge's actual expenses, plus four hundred dollars (\$400.00) for each day
10 of active service rendered upon recall. No recalled retired trial judge shall receive from
11 the State total annual compensation for judicial services in excess of that received by an
12 active judge of the bench to which the judge is recalled."

13 **SECTION 3.** G.S. 7A-53 reads as rewritten:

14 **"§ 7A-53. Application to the Governor; commission as emergency judge.**

15 No retired judge of the district or superior court may become an emergency judge
16 except upon his written application to the Governor certifying his desire and ability to
17 serve as an emergency judge. If the Governor is satisfied that the applicant qualifies
18 under G.S. 7A-52(a) to become an emergency judge and that he is physically and
19 mentally able to perform the official duties of an emergency judge, he shall issue to
20 such applicant a commission as an emergency judge of the court from which he retired.
21 The commission shall be effective upon the date of its issue and shall terminate when
22 ~~the a district court judge to whom it is issued reaches the maximum age for judicial~~
23 ~~service under G.S. 7A-4.20(a).~~ G.S. 7A-4.20(a) or when a superior court judge to whom
24 it is issued reaches that judge's seventy-sixth birthday."

25 **SECTION 4.** G.S. 7A-45.3 reads as rewritten:

26 **"§ 7A-45.3. Superior court judges designated for complex business cases.**

27 ~~(a) The Chief Justice may exercise the authority under rules of practice prescribed~~
28 ~~pursuant to G.S. 7A-34 to designate one or more of the special superior court judges~~
29 ~~authorized by G.S. 7A-45.1~~ Governor, in consultation with the Chief Justice, shall
30 appoint up to three special superior court judges to hear and decide complex business
31 cases as prescribed by the rules of practice. Any judge so designated appointed shall be
32 known as a Business Court Judge and shall preside in the Business Court. If there is
33 more than one business court judge, the Chief Justice may designate one of them as the
34 Senior Business Court Judge. If there is no designation by the Chief Justice, the judge
35 with the longest term of service on the court shall serve as Senior Business Court Judge
36 until the Chief Justice makes an appointment to the position.

37 (b) The three special superior court judges designated by the Chief Justice as of
38 January 1, 2014, as business court judges shall serve as the business court judges
39 authorized under subsection (a) of this section until each judge's retirement, resignation,
40 removal, or death, or the expiration of that judge's term. Upon the occurrence of each
41 judge's retirement, resignation, removal, or death, or the expiration of the judge's term,
42 the Governor shall appoint a successor as provided in subsection (a) of this section.
43 Thereafter, each special superior court judge appointed to serve as a business court
44 judge shall serve an eight-year term."

1 **SECTION 5.** It is the intent of the General Assembly that, effective upon the
2 abolition of each special superior court judgeship position as provided in G.S. 7A-
3 45.1(a8), as enacted in Section 1 of this act, the Judicial Department shall:

- 4 (1) Make use of emergency superior court judges authorized under G.S.
5 7A-52 and 7A-53 for the performance of duties previously performed
6 by that judge.
7 (2) Evaluate the need for additional regular superior court judges in high
8 need areas of the State and make any recommendations for the creation
9 of additional judgeships in those areas.

10 **SECTION 6.** This act becomes effective July 1, 2014.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-195 [v.5] (12/19)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/1/2014 4:14:25 PM**

Short Title: Reduce Hard Copies/Appellate. Div. Reports. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE NUMBER OF RECIPIENTS OF HARD COPIES OF THE APPELLATE DIVISION REPORTS DISTRIBUTED AT STATE EXPENSE, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-343.1 reads as rewritten:

§ 7A-343.1. Distribution of copies of the appellate division reports.

(a) The Administrative Officer of the Courts shall, at the State's expense distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

- Governor, Office of the _____ 1
- Lieutenant Governor, Office of the _____ 1
- Secretary of State, Department of the _____ 2
- State Auditor, Department of the _____ 1
- Treasurer, Department of the State _____ 1
- Superintendent of Public Instruction _____ 1
- Office of the Attorney General _____ 11 1
- State Bureau of Investigation _____ 1
- Agriculture and Consumer Services, Department of _____ 1
- Labor, Department of _____ 1
- Insurance, Department of _____ 1
- Budget Bureau, Department of Administration _____ 1
- Property Control, Department of Administration _____ 1
- State Planning, Department of Administration _____ 1
- Environment and Natural Resources, Department of _____ 1
- Revenue, Department of _____ 1
- Health and Human Services, Department of _____ 1
- Juvenile Justice, Division of _____ 1

Appendix D

1	Commission for the Blind	1
2	Transportation, Department of	1
3	Motor Vehicles, Division of	1
4	Utilities Commission	8
5	Industrial Commission	11
6	State Personnel Commission	1
7	Office of State Personnel	1
8	Office of Administrative Hearings	2
9	Community Colleges, Department of	38
10	Department of Commerce	1
11	Commission of Correction	1
12	Parole Commission	1
13	Archives and History, Division of	1
14	Public Safety, Department of	2
15	Cultural Resources, Department of	3
16	Legislative Building-Library	2 1
17	Justices of the Supreme Court	1 ea.
18	Judges of the Court of Appeals	1 ea.
19	Judges of the Superior Court	1 ea.
20	Clerks of the Superior Court	1 ea.
21	District Attorneys	1 ea.
22	Emergency and Special Judges of the Superior Court	1 ea.
23	Supreme Court Library	AS MANY AS REQUESTED 5
24		
25	Appellate Division Reporter	1
26	University of North Carolina, Chapel Hill	71
27	University of North Carolina, Charlotte	1
28	University of North Carolina, Greensboro	1
29	University of North Carolina, Asheville	1
30	North Carolina State University, Raleigh	1
31	Appalachian State University	1
32	East Carolina University	1
33	Fayetteville State University	1
34	North Carolina Central University	17
35	Western Carolina University	1
36	Duke University	17
37	Davidson College	2
38	Wake Forest University	25
39	Lenoir Rhyne College	1
40	Elon College	1
41	Campbell University	25
42	Federal, Out-of-State and Foreign Secretary of State	1
43	Secretary of Defense	1
44	Secretary of Health, Education and Welfare	1
45	Secretary of Housing and Urban Development	1
46	Secretary of Transportation	1

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1	Attorney General	1
2	United States Department of Justice	1
3	Internal Revenue Service	1
4	Veterans' Administration	1
5	Library of Congress	5
6	Federal Judges resident in North Carolina	1 ea.
7	Marshal of the United States Supreme Court	1
8	Federal District Attorneys resident in North Carolina	1 ea.
9	Federal Clerks of Court resident in North Carolina	1 ea.
10	Supreme Court Library exchange list	1
11	Cherokee Supreme Court, Eastern Band of	
12	Cherokee Indians	1

13 The Administrative Officer of the Courts shall develop a process through which all
14 other persons or entities may obtain copies of the appellate division reports by purchase.
15 The purchase price shall represent the actual cost to the State of publication and
16 shipping.

17 Each justice of the Supreme Court and judge of the Court of Appeals shall receive
18 for private use, one complete and up-to-date set of the appellate division reports. The
19 copies of reports furnished each justice or judge as set out in the table above may be
20 retained personally to enable the justice or judge to keep up-to-date the personal set of
21 reports.

22 (b) The appellate division reports shall be made available by electronic means, at
23 no cost to the recipient, through publication in a downloadable format on a publicly-
24 available website."

25 **SECTION 2.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-198 [v.5] (03/31)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/1/2014 1:55:29 PM**

Short Title: Highway Patrol Vehicle Replacement Plan. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO DIRECT THE STATE HIGHWAY PATROL TO INITIATE A PLAN
3 TO REDUCE THE MILEAGE ON STATE HIGHWAY PATROL VEHICLES
4 BEFORE VEHICLE REPLACEMENT AND TO APPROPRIATE FUNDS TO
5 BEGIN THE IMPLEMENTATION OF THAT PLAN, AS RECOMMENDED BY
6 THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON
7 JUDICIAL EFFICIENCY AND EFFECTIVE ADMINISTRATION OF JUSTICE.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** The Department of Public Safety shall initiate a two- to three-
10 year plan to replace State Highway Patrol vehicles at a lower accumulated mileage.

11 **SECTION 2.** There is appropriated from the General Fund to the
12 Department of Public Safety the sum of two million nine hundred eighty-five thousand
13 one hundred fourteen dollars (\$2,985,114) for the 2014-2015 fiscal year to begin
14 implementation of the vehicle replacement plan provided for in this act by allowing for
15 the replacement of 97 Highway Patrol vehicles that have current mileage of over
16 125,000 miles.

17 **SECTION 3.** This act becomes effective July 1, 2014.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-199 [v.2] (03/31)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/31/2014 9:08:30 PM**

Short Title: Highway Patrol Routine Maintenance. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO DIRECT THE STATE HIGHWAY PATROL TO STUDY THE
3 FEASIBILITY AND COST-EFFECTIVENESS OF CONTRACTING WITH
4 LOCAL BUSINESSES TO PERFORM MAINTENANCE ON STATE HIGHWAY
5 PATROL VEHICLES IN LIEU OF REQUIRING THE VEHICLES TO BE
6 TAKEN TO A REGIONAL MAINTENANCE FACILITY, AS RECOMMENDED
7 BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON
8 JUDICIAL EFFICIENCY AND EFFECTIVE ADMINISTRATION OF JUSTICE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** The Department of Public Safety shall study the feasibility and
11 cost-effectiveness of contracting with local businesses to perform maintenance on State
12 Highway Patrol vehicles in lieu of requiring the vehicles to be taken to a regional
13 maintenance facility. The Department of Public Safety shall report the results of this
14 study to the Joint Legislative Oversight Committee on Justice and Public Safety by
15 March 1, 2015.

16 **SECTION 2.** This act becomes effective July 1, 2014.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

BILL DRAFT 2013-LLz-200 [v.3] (03/31)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
3/31/2014 9:11:32 PM**

Short Title: Highway Patrol Uniforms. (Public)

Sponsors: Representative.

Referred to:

A BILL TO BE ENTITLED

**AN ACT TO DIRECT THE STATE HIGHWAY PATROL TO STUDY THE
FEASIBILITY AND COST-EFFECTIVENESS OF HAVING STATE HIGHWAY
PATROL UNIFORMS PRODUCED BY CORRECTION ENTERPRISES, AS
RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S
COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE
ADMINISTRATION OF JUSTICE.**

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Public Safety shall study the feasibility and cost-effectiveness of having State Highway Patrol uniforms be produced by Correction Enterprises. The Department of Public Safety shall report the results of this study to the Joint Legislative Oversight Committee on Justice and Public Safety by March 1, 2015.

SECTION 2. This act becomes effective July 1, 2014.

LEGISLATIVE PROPOSAL #12

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

H

D

BILL DRAFT 2013-LL-186 [v.4] (03/19)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

3/19/2014 5:22:36 PM

Short Title: State Crime Lab Salary Increase/Funds. (Public)

Sponsors: Representative Glazier.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO PROVIDE A TEN PERCENT SALARY INCREASE TO EMPLOYEES OF THE STATE CRIME LABORATORY, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Department of Justice the sum of nine hundred ninety-two thousand two hundred thirty-seven dollars (\$992,237) for the 2014-2015 fiscal year to provide a ten percent (10%) salary increase to all persons employed by the State Crime Laboratory in any of the following positions:

- (1) Forensic Scientist I.
- (2) Forensic Scientist II.
- (3) Forensic Scientist III.
- (4) Forensic Supervisor.
- (5) Forensic Manager.

SECTION 2. This act becomes effective July 1, 2014.

LEGISLATIVE PROPOSAL #13

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

H

D

BILL DRAFT 2013-SA-15 [v.2] (03/18)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/3/2014 10:39:33 AM

Short Title: Preserve Biological Evidence/Study. (Public)

Sponsors: Representative Glazier.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE JOINT SELECT STUDY COMMITTEE ON THE PRESERVATION OF BIOLOGICAL EVIDENCE, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. The Joint Select Study Committee on the Preservation of Biological Evidence is established. The membership shall be as follows:

- (1) Three members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (3) The Attorney General or the Attorney General's designee.
- (4) The Director of the SBI or the Director's designee.
- (5) The Director of the Administrative Office of the Courts or the Director's designee.
- (6) The President of the North Carolina Association of Clerks of Superior Court or the President's designee.
- (7) The President of the North Carolina Association of Chiefs of Police or the President's designee.
- (8) The President of the North Carolina Sheriffs' Association or the President's designee.
- (9) The President of North Carolina Advocates for Justice or the President's designee.
- (10) One North Carolina district attorney appointed by the Speaker of the House of Representatives.
- (11) One North Carolina district attorney appointed by the President Pro Tempore of the Senate.
- (12) One public member appointed by the Speaker of the House of Representatives.

1 (13) One public member appointed by the President Pro Tempore of the
2 Senate.

3 The President Pro Tempore of the Senate and the Speaker of the House of
4 Representatives shall each appoint one legislative member of the Committee to serve as
5 cochair. The Committee shall meet upon the call of the cochairs. A quorum of the
6 Committee shall be a majority of its members.

7 **SECTION 2.** The Committee shall review matters related to the preservation
8 of DNA and biological evidence, including:

9 (1) The costs associated with the promulgation of minimum guidelines for
10 the retention and preservation of biological evidence.

11 (2) Emerging technologies with regard to the retention and preservation of
12 biological evidence.

13 (3) Procedures for the interagency transfer of biological evidence.

14 (4) Any other topic the Committee believes is related to its purpose.

15 **SECTION 3.** Members of the Committee shall receive per diem,
16 subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5, or 138-6, as
17 appropriate. The expenses of the Committee shall be considered expenses incurred for
18 the joint operation of the General Assembly. All expenses of the Committee shall be
19 paid from the Legislative Services Commission's Reserve for Studies. The Legislative
20 Services Officer shall assign professional and clerical staff to assist the Committee in its
21 work.

22 **SECTION 4.** The Committee shall submit a final report on the results of its
23 study, including any proposed legislation, to the General Assembly on or before April 1,
24 2015. The Committee shall file a copy of its report with the President Pro Tempore's
25 office, the Speaker's office, and the Legislative Library. The Committee shall terminate
26 on April 1, 2015, or upon the filing of its final report, whichever occurs first.

27 **SECTION 5.** This act is effective when it becomes law.